



DEPARTMENT OF COMMERCE

**International Trade Administration**

**[A-570-082, C-570-083]**

**Certain Steel Wheels from the People's Republic of China: Notice of Covered Merchandise Referral**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Pursuant to the Enforce and Protect Act of 2015 (EAPA), the Department of Commerce (Commerce) received a covered merchandise referral from U.S. Customs and Border Protection (CBP) in connection with a CBP EAPA investigation concerning the antidumping duty (AD) and countervailing duty (CVD) orders on certain steel wheels from the People's Republic of China (China). In accordance with EAPA, Commerce intends to determine whether the merchandise subject to the referral is covered by the scope of these orders and promptly transmit its determination to CBP. Commerce is providing notice of the referral and inviting participation from interested parties.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum or Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0197 or (202) 482-5255, respectively.

**SUPPLEMENTARY INFORMATION:**

Background

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 was signed into law, which contains Title IV-Prevention of Evasion of Antidumping and Countervailing Duty Orders, commonly referred to as the Enforce and Protect Act of 2015 or

EAPA.<sup>1</sup> Effective August 22, 2016, section 421 of EAPA added section 517 to the Tariff Act of 1930, as amended (the Act), which establishes a formal process for CBP to investigate allegations of the evasion of AD and CVD orders. Section 517(b)(4)(A) of the Act provides a procedure whereby if, during the course of an EAPA investigation, CBP is unable to determine whether the merchandise at issue is covered merchandise within the meaning of section 517(a)(3) of the Act, then it shall refer the matter to Commerce to make such a determination. Section 517(a)(3) of the Act defines covered merchandise as merchandise that is subject to an AD order issued under section 736 of the Act or a CVD order issued under section 706 of the Act. Section 517(b)(4)(B) of the Act states that Commerce, after receiving a covered merchandise referral from CBP, shall determine whether the merchandise is covered merchandise and promptly transmit its determination to CBP. The Act does not establish a deadline by which Commerce must issue its determination.

On June 9, 2021, Commerce received a covered merchandise referral from CBP regarding CBP EAPA Investigation No. 7509,<sup>2</sup> which concerns the AD and CVD orders on certain steel wheels from China.<sup>3</sup> CBP explained that Accuride Corporation (Accuride) and Maxion Wheels Akron LLC (Maxion) alleged that Vanguard National Trailer Corporation (Vanguard) imported steel wheels produced by Chinese manufacturer Zhejiang Jingu Company Limited (Jingu) that were transshipped through Jingu's affiliate in Thailand, Asia Wheel Co. Ltd. (Asia Wheel), and entered into the United States as a product of Thailand to evade the *Orders*. CBP's Office of Trade initiated an EAPA investigation based on the evidence in the allegation

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<sup>1</sup> Title IV – Prevention of Evasion of Antidumping and Countervailing Duty Orders, Pub. L. 114-125, 130 Stat. 122, 155 (February 24, 2016).

<sup>2</sup> See CBP's Letter, "Covered Merchandise Referral Request for EAPA Investigation 7509, Imported by Vanguard National Trailer Corporation: Antidumping and countervailing duty Orders on Certain Steel Wheels 22.5 and 24.5 Inches in Diameter from the People's Republic of China," dated June 9, 2021 (CBP's EAPA 75009 Letter). Commerce intends to make available this document and any supporting documents on Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS) with this notice.

<sup>3</sup> See *Certain Steel Wheels from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 84 FR 24098 (May 24, 2019) (*Orders*).

submitted by Accuride and Maxion that reasonably suggested that Vanguard entered steel wheels into the customs territory of the United States by means of evasion.<sup>4</sup>

CBP further informed Commerce on August 18, 2020, that the Trade Remedy Law Enforcement Directorate of CBP's Office of Trade initiated an EAPA investigation based on the reasonableness of the evidence in Accuride and Maxion's allegation that Vanguard imported merchandise covered by the *Orders* into the customs territory of the United States by means of evasion.<sup>5</sup> In response, Vanguard and Asia Wheel stated that the steel wheels at issue were not subject to the *Orders*, because they were produced in Thailand using rims that did not originate in China.<sup>6</sup> Accordingly, CBP has requested that Commerce issue a determination as to whether steel wheels produced in Thailand by Asia Wheel from Thai-origin steel wheel rims and Chinese-origin steel wheel discs, are covered merchandise.

We note that this merchandise is already the subject of a scope ruling request previously submitted to Commerce by Asia Wheel,<sup>7</sup> and is currently under consideration in ongoing scope inquiries of the *Orders*.<sup>8</sup>

#### Notification to Interested Parties

Commerce is hereby notifying interested parties that it has received the covered merchandise referral referenced above. As the covered merchandise referral requests a determination on merchandise identified in a request for a scope ruling previously submitted to Commerce and currently under consideration, we will address the covered merchandise referral and Asia Wheel's scope ruling request in the ongoing scope inquiries of the *Orders*. Based on our determinations in the ongoing scope inquiries of the *Orders*, we intend to notify CBP as to

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<sup>4</sup> See CBP's EAPA 75009 Letter at 2.

<sup>5</sup> *Id.* at 1-2.

<sup>6</sup> *Id.* at 2.

<sup>7</sup> See Asia Wheel's Letter, "Certain Steel Wheels from the People's Republic of China: Request for Scope Ruling for Asia Wheel's Steel Truck Wheels," dated February 11, 2021.

<sup>8</sup> See Letter from Commerce "Antidumping and Countervailing Duty Orders on Certain Steel Wheels from the People's Republic of China (A-570-082, C-570-083): Initiation of Asia Wheel Scope Inquiry," dated May 12, 2021.

whether the merchandise subject to the referral is covered merchandise within the meaning of section 517(a)(3) of the Act.

Commerce intends to provide interested parties with the opportunity to participate in this EAPA referral as part of the ongoing scope inquiries, including through the submission of comments, and, if appropriate, new factual information and verification. Specifically, Commerce will notify parties on the segment-specific service list for these segments of the proceedings of a schedule for comments. In addition, Commerce may request factual information from any person to assist in making its determination and may verify submissions of factual information, if Commerce determines that such verification is appropriate. C

Parties are also hereby notified that this is the only notice that Commerce intends to publish in the *Federal Register* concerning this covered merchandise referral. Interested parties that wish to participate in these scope inquiries, and receive notice of the final determinations, must submit their letters of appearance as discussed below. Further, any party desiring access to business proprietary information in these scope inquiries must file an application for access to business proprietary information under administrative protective order (APO), as discussed below.

Further, Commerce may consider conducting a separate anti-circumvention inquiry regarding the merchandise described in CBP's covered merchandise referral, if parties submit the necessary information addressing the criteria for an anti-circumvention inquiry, in accordance with section 781 of the Act. Interested parties are requested to file such comments and information onto the record of the ongoing scope inquiries within 30 days of the publication of this notice in the *Federal Register*.

Finally, we note that covered merchandise referrals constitute a new type of segment of a proceeding at Commerce and, therefore, Commerce intends to develop its practice and procedures in this area as it gains more experience.

Scope of the Orders

The products covered by the *Orders* are certain on-the-road steel wheels, discs, and rims for tubeless tires, with a nominal rim diameter of 22.5 inches and 24.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 22.5 inches and 24.5 inches are generally for Class 6, 7, and 8 commercial vehicles (as classified by the Federal Highway Administration Gross Vehicle Weight Rating system), including tractors, semi-trailers, dump trucks, garbage trucks, concrete mixers, and buses, and are the current standard wheel diameters for such applications. The standard widths of certain on-the-road steel wheels are 7.5 inches, 8.25 inches, and 9.0 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope. While 22.5 inches and 24.5 inches are standard wheel sizes used by Class 6, 7, and 8 commercial vehicles, the scope covers sizes that may be adopted in the future for Class 6, 7, and 8 commercial vehicles.

The scope includes certain on-the-road steel wheels with either a “hub-piloted” or “stud-piloted” mounting configuration, and includes rims and discs for such wheels, whether imported as an assembly or separately. The scope includes certain on-the-road steel wheels, discs, and rims, of carbon and/or alloy steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. All on-the-road wheels sold in the United States are subject to the requirements of the National Highway Traffic Safety Administration and bear markings, such as the “DOT” symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.120. The scope includes certain on-the-road steel wheels imported with or without the required markings. Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem attached are included. However, if the certain on-the-road steel wheel is imported as an assembly with a tire mounted on the wheel and/or with a valve stem attached, the certain on-the-road steel wheel is covered by the scope, but the tire and/or valve stem is not covered by the scope.

The scope includes rims and discs that have been further processed in a third country, including, but not limited to, the welding and painting of rims and discs from China to form a

steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the proceeding if performed in China.

Excluded from the scope are:

- 1) steel wheels for tube-type tires that require a removable side ring;
- 2) aluminum wheels;
- 3) wheels where steel represents less than fifty percent of the product by weight; and
- 4) steel wheels that do not meet National Highway Traffic Safety Administration requirements, other than the rim marking requirements found in 49 CFR 571.120S5.2.

Imports of the subject merchandise are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 8708.70.4530, 8708.70.4560, 8708.70.6030, 8708.70.6060, 8716.90.5045, and 8716.90.5059. Merchandise meeting the scope description may also enter under the following HTSUS subheadings: 4011.20.1015, 4011.20.5020, and 8708.99.4850. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.

#### Filing Requirements

All submissions to Commerce must be filed electronically using ACCESS.<sup>9</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information.<sup>10</sup> Each submission must be placed on the record of each of the scope inquiries, *i.e.*, for the AD order (A-570-082) and the CVD order (C-570-083).

#### Letters of Appearance and Administrative Protective Order

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<sup>9</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), as amended in *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>10</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Interested parties that wish to participate in these scope inquiries and be added to the public service list must file a letter of appearance in accordance with 19 CFR 351.103(d)(1), with one exception: the parties to EAPA investigation 7509 publicly identified by CBP in the covered merchandise referral referenced above (Accuride, Maxion, and Vanguard)<sup>11</sup> are not required to submit a letter of appearance, and will be added to the public service list for these scope inquiries by Commerce.

Commerce placed an APO on the existing records of the scope inquiries on May 12, 2021,<sup>12</sup> and established the APO service lists for use in these segments. Commerce intends to place the covered merchandise referral letter on the records of these scope inquiries in ACCESS within five days of publication of this notice.

Interested parties must submit applications for disclosure under the APO in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to these segments of the AD and CVD proceedings, with one exception: APO applicants representing the parties that have been identified by CBP as an importer in the covered merchandise referral (referenced above) are exempt from the additional filing requirements for importers pursuant to 19 CFR 351.305(d).

Dated: July 14, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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<sup>11</sup> See CBP's EAPA 75009 Letter at 4.

<sup>12</sup> See the Administrative Protective Orders, dated May 12, 2021.